

LAW FIRM

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August 19, 2004

Office of the General Counsel
Federal Election Commission
999 E Street, N.W., 6th Floor
Washington, D.C. 20463

Re: MUR #5492

Ladies and Gentlemen:

I write as attorney for Cleaver for Congress and David Fenley, its Treasurer, in response to the July 23, 2004 complaint submitted by Gale Banks.

The complaint alleges that Cleaver for Congress colluded with Freedom, Inc. to utilize corporate donations to fund public communications advocating the election of Rev. Emanuel Cleaver to Congress. It is alleged that Cleaver for Congress worked "hand in glove" with Freedom, Inc. and that Rev. Cleaver sits on the board of Freedom, Inc. None of these allegations are true.

Freedom, Inc. has apparently acknowledged receipt of contributions from American Tri-Star, Inc. and Pyramid Construction. The complaint implies that these contributions were used to purchase radio and newspaper advertisements which expressly advocated the election of Rev. Cleaver. No representative of Cleaver for Congress has any basis for believing this allegation is true and, in fact, we understand that those corporate funds were used only for lawful purposes unrelated to any federal election. It is the further understanding of Cleaver for Congress that all Freedom, Inc. communications relating to the Congressional primary were funded by permissible sources. My clients cannot speak for Freedom, Inc., and we assume that it will make its own response to the complaint. Other than the allegation in the complaint, which was presumably filed on behalf of Rev. Cleaver's primary opponent, there is no evidence that Freedom, Inc.'s activities were improperly or illegally financed.

Submitted with this letter are affidavits from Rev. Emanuel Cleaver and Luther Washington, campaign manager of Cleaver for Congress. Those affidavits establish that there was no direct involvement by Cleaver for Congress in any of the advertisements placed by Freedom, Inc. Cleaver For Congress had no direct or substantive involvement in Freedom, Inc.'s activities, and there were no substantive discussions or material interaction between Cleaver for Congress and Freedom, Inc. concerning the advertisements at issue.

KC-1212721-1

KANSAS CITY, MISSOURI • ST. LOUIS, MISSOURI • OVERLAND PARK, KANSAS • OMAHA, NEBRASKA
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AFFILIATES: LEEDS • MANCHESTER • MEXICO CITY • MONTREAL • TORONTO • VANCOUVER

FEDERAL ELECTION COMMISSION
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Office of the General Counsel
August 19, 2004
Page 2

As established by Rev. Cleaver's affidavit, he did not work hand in glove with Freedom, Inc. He was not a member of the organization and he did not participate in any way in its affairs at any relevant time. Though Rev. Cleaver was, at one time, a member and director of Freedom, Inc., he allowed his membership to lapse before the beginning of the 2004 campaign. He was not a member of the board of directors during 2004, and he attended no meeting of the board of directors of Freedom, Inc. after 2002. Our review of public records reveals that filings by Freedom, Inc. with the Missouri Secretary of State do show Rev. Cleaver as a member of the board of Freedom, Inc. As the facts show, however, this filing is simply incorrect.

As Mr. Washington's affidavit further confirms, no representative of Cleaver for Congress encouraged, planned, or coordinated any activity with Freedom, Inc. The complaint contains no facts, other than the mistaken reference to Rev. Cleaver's board service, which support the allegation that Freedom, Inc.'s expenditures were "actively encouraged, if not planned in coordination with, the Cleaver Campaign." There are no such facts, and the allegation is false.

We believe that this response establishes the invalidity of the substance of the Banks complaint. The claim of close coordination of activities is simply untrue. There is no reason to believe that the allegation that Freedom, Inc. used corporate contributions to fund the advertisements at issue is true nor is there any reason to believe that Cleaver for Congress had any knowledge of any improper use of corporate funds.

While we believe there is no basis for this matter to proceed further, we stand ready to cooperate and to provide any additional information which you may require. If something further is desired or if we have omitted to address some issue which you believe should be addressed, please let me know. Thank you for your assistance.

Very truly yours,



Michael Thompson

MT:jlf

Affidavit of Reverend Emanuel Cleaver II

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

Reverend Emanuel Cleaver II, of lawful age and being duly sworn, does state as follows:


1. I reside at Kansas City, Missouri. I won election as the Democratic nominee for Congress from the Missouri Fifth Congressional District in the primary election held on August 3, 2004. I am Senior Pastor of St. James United Methodist Church in Kansas City, and I have served the church as its minister for twenty-five years. I served on the Kansas City, Missouri City Council from 1979 to 1991. I served as Mayor of Kansas City from 1991 to 1999.

2. For many years, I was a dues paying member of Freedom, Inc., a not-for-profit organization located in Kansas City, Missouri, dedicated to involving minorities in the electoral process. Freedom, Inc. was founded in 1962 with the goal of encouraging minorities in Kansas City to register and vote. Freedom, Inc. has traditionally endorsed minority candidates for local offices and often takes positions on candidates for state and national office. Its more important activities, however, involve encouraging voter registration, educating minority voters, and providing a forum for minority candidates running for local office in Kansas City.

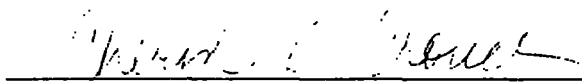
3. When I began to consider entering the race for Congress, I decided not to renew my membership in the organization because I felt that any participation by me would interfere with my race for Congress. I last paid my annual dues in May 2003.

4. I am advised that some current records of Freedom, Inc. indicate that I am a member of the board of directors. This is not correct. While, in years past, I participated in meetings of the organization's board, I have not done so for some time. In fact, I have not attended a board meeting of Freedom, Inc. since 2002.

5. I have not coordinated any of my election activities with Freedom, Inc., nor have I participated in or coordinated with any activities of Freedom, Inc. since 2002.


Reverend Emanuel Cleaver, II

Subscribed and sworn to before me this 18th day of August, 2004.


Notary Public



CHERYL D. CROUCH
My Commission Expires
June 9, 2007

Affidavit of Luther Washington

STATE OF MISSOURI)
) SS.
COUNTY OF JACKSON)

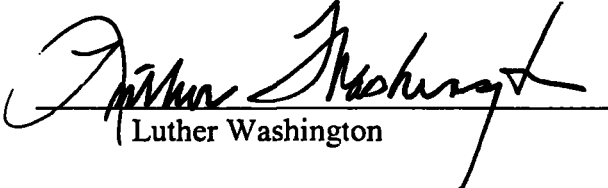
Luther Washington, of lawful age and being sworn, does state as follows:

1. I reside at Kansas City, Missouri. I am campaign manager and I direct the race of Reverend Emanuel Cleaver II for Congress for Missouri's Fifth Congressional District. I am, as a practical matter, the chief administrative and operating officer of the Cleaver For Congress campaign committee.

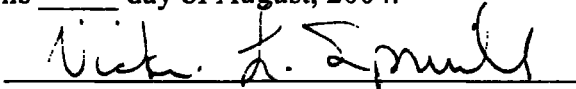
2. I understand that Freedom, Inc. paid for radio and newspaper advertisements aimed at minority voters in Kansas City which, among other things, encouraged them to support Reverend Cleaver, an African-American candidate. No representative of Cleaver For Congress encouraged, planned, or coordinated in any way with Freedom, Inc. in the preparation of this advertisement or any other activity of Freedom, Inc. We did not provide Freedom, Inc. with photographs of Reverend Cleaver.

3. Cleaver For Congress donated \$10,000 to Freedom, Inc. to help support its varied programs directed to minority voters. The group has been well known for such activities in Kansas City for 40 years. We understood the funds would be used to support voter registration and get out the vote campaigns as well as in connection with Freedom, Inc.'s endorsement of candidates.

4. I am not aware of any facts which would suggest that Freedom, Inc. used corporate contributions to fund any political advertisements for federal candidates. I believe Freedom, Inc. to be a sophisticated organization, and I personally doubt that any such allegation is accurate.


Luther Washington

Subscribed and sworn to before me this 20th day of August, 2004.


Notary Public

My Commission Expires:

VICKI L. SPRUIELL
Notary Public - Notary Seal
STATE OF MISSOURI
Jackson County
My Commission Expires: January 14, 2007

STATEMENT OF DESIGNATION OF COUNSEL

Please use one form for each respondent

MUR 5492

NAME OF COUNSEL: Michael Thompson

FIRM: Blackwell Sanders Peper Martin LLP

ADDRESS: 2300 Main Street, Suite 1000

Kansas City, Missouri 64108

TELEPHONE: (816) 983-8120

FAX: (816) 983-8080

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Cleaver For Congress

Print Name

08/20/04
Date

David A. Farley
Signature

Treasurer
Title

RESPONDENT'S NAME: Cleaver For Congress

ADDRESS: 2300 Main Street, Suite 1000

Kansas City, Missouri 64108

TELEPHONE: HOME

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Please use one form for each respondent

MUR 5492

NAME OF COUNSEL: Michael Thompson

FIRM: Blackwell Sanders Peper Martin LLP

ADDRESS: 2300 Main Street, Suite 1000

Kansas City, Missouri 64108

TELEPHONE: (816) 983-8120

FAX: (816) 983-8080

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

David Fenley

Print Name

08/20/04
Date

David A Fenley
Signature

Treasurer
Title

RESPONDENT'S NAME: David Fenley, Treasurer, Cleaver For Congress

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Kansas City, Missouri 64108

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GENERAL
COUNSEL

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